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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,779	07/10/2003	Kenneth A. Scott	075234.0113	2000

5073 7590 12/27/2007

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EXAMINER	
THOMASSON, MEAGAN J	
ART UNIT	**PAPER NUMBER**
3714	

NOTIFICATION DATE	DELIVERY MODE
12/27/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/616,779	SCOTT ET AL.	
	Examiner	Art Unit	
	Meagan Thomasson	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/3/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 3, 2007 has been entered.

Response to Amendment

The examiner acknowledges the amendments made to claims 21-22,29-30 and 37-38. Claims 1-20 are canceled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 21-22,25-30,33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (US 5,830,068) in view of Mir et al. (US 6,450,887 B1).

Regarding claim 21, as shown in Fig. 3, Brenner discloses a method of placing a pari-mutuel wager comprising displaying a plurality of tracks where a plurality of races, i.e. events, are available, receiving a selection of the first one of the plurality of tracks [196], receiving a selection of a first one of the plurality of events [204], and receiving a first wager associated with a first event that is at the first track wherein the first wager is based at least in part on the first race [212]. After placing a wager, two or more options are displayed to the player [258], wherein a first option is to switch tracks ("Main Menu" option in menu [258] allows player to select a second one of the plurality of tracks and place a second wager associated with a second event that is at the second track, wherein the second wager is based at least in part on the first game) and a second option is to switch events ("More Bets Other Race" option in menu [258] allows a player to select a second one of the plurality of events, i.e. races, that are available at the first track and to place a third wager associated with a third event that is at the first track, wherein the third wager is based at least in part on the second game).

Brenner does not specifically disclose a method of placing a pari-mutuel wager comprising displaying a plurality of games, wherein each game is a respective type of

casino-styled pari-mutuel game, receiving a selection of a first one of the plurality of games, displaying a plurality of tracks where the first game is available, receiving a selection of a first one of the plurality of tracks, and receiving a first wager associated with an event at the first track based at least in part on the first game. Nor does Brenner disclose *if the second option is selected, displaying a plurality of games that are available at the first track, receiving a selection of a second one of the plurality of games.* Instead, the method of Brenner for placing pari-mutuel wagers comprises the steps displaying a plurality of tracks, allowing the player to select a track, displaying a plurality of events, i.e. races, allowing the player to select one of the events, and then allowing a player to place a wager on an event at the selected track based at least in part on the first event. The second option disclosed by Brenner allows a player to select a new event, i.e. race, for a player to wager on.

However, in an analogous race track betting type of invention, Mir et al. discloses allowing a player to first select a type of casino-style pari-mutuel wagering game, e.g. "Thoroughbred Mania", "Thundering Hounds" or "Live Racing", prior to selecting any other wagering parameter (col. 8, lines 14-19; col. 8, lines 62-67). If the player selects the "Live Racing" game option, the player is then allowed to select a track where this game is available and place a bet accordingly (col. 9, lines 24-30). Additionally, Fig. 3b of Mir et al. displays an "Exit to Menu" option, which returns a player to the game selection screen of Fig. 3a (col. 8, lines 58-59). Thus, Mir et al. discloses a selectable option that allows a player to select a new game. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the betting options

disclosed in Brenner with the ability to first select a desired game and display a plurality of tracks where the selected game is available, as disclosed by Mir, the inventions are analogous race-track type betting systems in the same field of endeavor. Further, all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Regarding claims 22,30 and 38, as described above, Brenner discloses the displayed options comprise a third option to play the first game again ("More Bets Same Race" option in menu 258), such that if the third option is selected then a plurality of events, i.e. races, that are at the first track are displayed and a fourth wager may be placed that is associated with at least one of the displayed plurality of events, wherein the fourth wager is based at least in part on the first game.

Regarding claims 25 and 33, Brenner discloses that track information, including post times and odds, associated with the selected track is displayed (step 272 of Fig. 19).

Regarding claims 26 and 34, Brenner discloses displaying a video of at least a portion of the first event (col. 17, line 48 – col. 18, line 14).

Regarding claims 27 and 35, Brenner discloses the displayed video is of at least a portion of a pre-recorded event ("Archived racing videos", col. 17, lines 62-64).

Regarding claims 28 and 36, Brenner discloses the first wager is associated with a first user, and further comprises recording data to a reward card associated with the

first user, wherein the recorded data is based at least in part on the determined result of the first wager (Fig. 6, "Smart Card" featuring transaction history).

Regarding claims 29 and 37, in addition to the invention as described in the above rejection of claim 21, Brenner discloses in Fig. 2 an apparatus comprising a memory (RAM/ROM elements 134 and 136), a processor (element 132), and a display screen (monitor element 126).

Claims 23-24,31-32 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (US 5,830,068) and Mir et al. (US 6,450,887 B1) as applied above, and further in view of Xidos et al. (US 5,851,149).

Regarding claims 23,31 and 39, Brenner/Mir disclose displaying at least one link to at least one instructional frame (col. 13, lines 39-66), wherein the instructional frame comprises a plurality of rules for playing the first game. *Brenner/Mir do not specifically disclose providing at least one simulated play of the first game according to the plurality of rules.*

However, in an analogous gaming device, Xidos discloses allowing a player to select a link to an instructional frame having at least one simulated play of the game according to the plurality of rules (Fig. 3, Channel Introduction; Fig. 5 "Display Game Tutorial"), wherein the game tutorial "details game rules and demonstrates game play" (col. 12, lines 20-24). It would have been obvious to one of ordinary skill in the art at the

time of the invention to provide a simulation for the selected game in order to provide a player with instructional teachings for how to play the selected game as all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. That is, Brenner teaches providing instructions to a player regarding a selected betting mode, and Xidos teaches illustrating said instructions via a simulation of game play. The combination of these elements produces the predictable result of enhanced instruction to a player so that they may gain a better understanding of the method of operation of a given type of game prior to committing a wager amount to said type of game.

Regarding claims 24,32 and 40, Brenner discloses that the instructional frame comprises a link to a game play frame, wherein the game play frame allows input of a wager associated with the first game. That is, in col. 13, lines 39-41, Brenner discloses that the instructional frame may be selected at step 264 (Fig. 4). As shown in Fig. 4, step 264 comprises a bi-directional link (i.e. the arrow in the drawing) that connects the informational frame of step 264 with element "C". If followed to Fig. 3, element "C" is shown as linked to the game play frame that allows input of a wager associated with the firs game ("Place Wager" option of step 212).

Response to Arguments

Applicant's arguments with respect to claims 21,29 and 37, specifically those arguments drawn to the amended features of the claims as taught by Brenner et al. alone, have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments, see Remarks P. 14, filed October 3, 2007, with respect to the rejection(s) of claim(s) 23 under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. have been fully considered and are persuasive. Specifically, the examiner finds applicant's arguments regarding at least one simulated play of the first game persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Xidos et al. (US 5,851,149).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent prior art includes Brenner et al. (US 6,554,708), drawn to an interactive wagering system and process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson
December 17, 2007

Ronald Laneau
RONALD LANEAU
PRIMARY EXAMINER
12/19/07